



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Ralph H. Johnson

Serial No.: 10/026,055

Filed: December 20, 2001

Confirmation No. 8713

For: VERTICAL CAVITY SURFACE EMITTING  
LASER INCLUDING INDIUM ANTIMONY  
AND NITROGEN IN THE ACTIVE REGION

Examiner: Dung T. Nguyen

## TERMINAL DISCLAIMER

Commissioner for Patents  
PO Box 1450  
Arlington, Virginia 22313-1450

Sir:

Your petitioner, Finisar Corporation, a Delaware corporation, having a principal place of business at 1308 Moffett Park Drive, Sunnyvale, California 94089, by and through Carl T. Reed, its attorney of record, represents that it is the sole owner of United States Patent Application Serial No. 10/026,055, filed on the December 20, 2001.

Petitioner hereby disclaims the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. § 154 to 156 and 173 as presently shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second United States Application 10/026,044, filed

December 27, 2001, of any patent on the pending second application, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 to 156 and 173 of any patent granted on the second application, as presently shortened by any terminal disclaimers, in the event that any such patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims cancelled by a reexamination certificate, is reissued or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to its grant, except for the separation of legal title stated above.

Petitioner hereby declares that all statements made herein of its own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 11<sup>th</sup> day of August 2004.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Carl T. Reed".

CARL T. REED  
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